United Nations A/HRC/30/NGO/78

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 5
Human rights bodies and mechanisms

Written statement* submitted by the Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15056(E)

Please recycle

Report on the eighth session of the Expert Mechanism on the Rights of Indigenous Peoples

Human Rights Advocates welcomes the action undertaken by the Expert Mechanism on the Rights of Indigenous Peoples in discussing the relation Indigenous Peoples have to business enterprises. We urge the Human Rights Council to continue this discussion with the Expert Mechanism as well as the Working Group on Business and Human Rights in order to ensure that the framework of Free, Prior, and Informed Consent is effectively implemented and promoted in the context of the extractive industries as well as to encourage the need for a legally binding instrument on transnational corporations and business enterprises. This recommendation refers to the advance unedited version of the Draft Report of the Expert Mechanism on the Rights of Indigenous Peoples on its Eighth Session in Geneva on July 20-24, 2015.

Overview

Accounting for most of the world's cultural diversity with approximately 370 million Indigenous Peoples worldwide, Indigenous groups continue to be one of the most marginalized and vulnerable peoples in the world.[1] Indigenous Peoples' tradition, culture, religion, and identity is derived from their relationship with the earth. They look to it for their sustenance, spirituality, and cultural survival. This relationship has resulted in Indigenous groups being the most affected by the activities of transnational corporations and business enterprises, especially in the extractive and development industries.

Indigenous Peoples predominately reside in lands with an abundance of natural resources. Throughout the world, the majority of valuable natural resources such as timber, minerals, water and crude have been found within Indigenous territories.[2] Due to living on territories rich with natural resources, large-scale extractive activities and development projects seeking these resources have been the most detrimental to Indigenous Peoples as their loss of culture, livelihood, traditions and very survival is threatened by these practices.[3] Due to environmental damage and loss of traditional lands being a common effect of these types of activities, large-scale extractive and development activities by governments and corporations have presented a serious challenge for indigenous communities throughout the world.

Transnational corporations and business enterprises are instrumental in national and global economies. Not only are jobs, technology, and capital developed from their activities, corporate players can also exert a positive influence in fostering development through the extractive industry, especially for underdeveloped countries. Beyond economic development, corporations and business can contribute to the overall promotion of human rights. With more and more businesses and corporations seeking to leave a positive impact on human rights, these entities can play a vital role in ensuring that individual and collective rights of affected Indigenous communities are protected. State governments are equally important in the promotion and protection of Indigenous Peoples' rights as they set the standards and guidelines for corporations and business on how to conduct and implement projects within a state host's territories. Ensuring that the guidelines and standards set forth for those operating within the state hosts territories are monitored and followed.

The tension between corporations, businesses and Indigenous Peoples arises when extractive activities by corporate and government actors become detrimental to Indigenous communities. There is a recurring theme of the host state granting concessions to a corporation, for an extractive or development project, without the prior consultation and consent of the affected Indigenous community. This has led to an evident disconnect between the host state, the corporation, and the affected community. In turn this has resulted in the exploitation and destruction of the Indigenous community's territory and culture identity. What tends to be the driving force for these violations is the tension between seeking economic development and the protection of human rights.

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[1] *Environment*, U.N. PERMANENT FORUM ON INDIGENOUS ISSUES, *available at* http://undesadspd.org/IndigenousPeoples/ThematicIssues/Environment.aspx.

[2] U.N. Secretariat of the Permanent Forum on Indigenous Issues, Training Module on Indigenous Peoples' Issues: Facilitator's Handbook (Nov. 2010), *available at* http://www.un.org/esa/socdev/unpfii/documents/trainingmodule_en.pdf.

[3] LAURA WESTRA, ENVTL. JUSTICE & THE RIGHTS OF INDIGENOUS PEOPLES: INT'L & DOMESTIC LEGAL PERSPECTIVES 86 (2008).

Human Rights Advocates supports the current international framework on Indigenous Peoples' right to Free, Prior, Informed Consent, which applies to the extractive industries and development, as well as current international instruments on indigenous peoples' rights such as the International Labour Organization Convention No. 169[4] and the United Nations Declaration on the Rights of Indigenous Peoples.[5]

Further, Human Rights Advocates continues to support the current need for a legally binding international instrument on business and human rights and supports Ecuador's efforts in implementing Resolution A/HRC/RES/26/9 on the "Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights" adopted by the Human Rights Council on 25 June 25 2014. Human Rights Advocates further applauds the current efforts by various states and their commitment to creating National Action Plans to address this issue.

Recommendations

Human Rights Advocates urges the Human Rights Council and the Working Group to continue the discussion on the impact business enterprises have on rights of Indigenous Peoples. Human Rights Advocates further urges states to implement National Action Plans and support the current intergovernmental working group mandated to "elaborate an internationally legally binding instrument on transnational corporations and other business enterprises with respect to human rights." The need for all stakeholders -- indigenous groups, business and states -- to be involved in the discussion is crucial in order to ensure that Indigenous Peoples rights are protected.

Conclusion

The need for a legally binding international instrument is due to the failure that soft law such as the UN Guiding Principles on Business and Human Rights has had on protecting human rights, in particular providing remedies when there are violations. While the Guiding Principles are a positive step towards promoting human rights, a binding instrument on transnational corporations and business enterprises will empower developing countries to better protect their Indigenous communities. Further a binding international standard will be able to provide remedies for those affected communities that have been subjected to violations by corporations and business and also hold states, corporations, and businesses accountable for violations they have committed against Indigenous communities.

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[4] C169-Indigenous and Tribal Peoples Convention, 1989 [ILO 169], *Convention concerning Indigenous and Tribal Peoples in Independent Countries*, Sept. 5, 1991, Geneva, 76th ILC Sess.

[5] General Assembly, U.N. *Declaration on the Rights of Indigenous Peoples* [UNDRIP], 61st Sess., Oct. 2, 2007, U.N. Doc. A/RES/61/295.

United Nations A/HRC/30/NGO/79

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 4 and 5
Human rights situations that require the Council's attention

Human rights bodies and mechanisms

Written statement* submitted by the International Career Support Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15057(E)

Please recycle

The Keystone of East Asia

Lying in the East China Sea with a population of 1.4 million people, Okinawa Prefecture has historically been Japanese territory, and the people are the same ethnically, culturally, and linguistically. These facts are easily confirmed academically. In addition, Okinawa, like the other prefectures of Japan, has enjoyed political stability, a high degree of democracy, and all the benefits of freedom as a part of Japan. Furthermore, as a developed nation, Japan enjoys one of the highest qualities of life in Asia.

Okinawa was previously a poor area with no industrial base, but its socio-economic situation has greatly developed due to the special support given by the central government as a result of Japan's own economic development. Okinawa's health care, education, welfare, and culture, backed by Japan's high standards of social infrastructure, make them world-class. The central government has provided more than 11 trillion yen to Okinawa Prefecture in the years since its reversion to Japan, and the government has previously pledged to continue this generous support in the future as well. Okinawa's population has doubled compared to the prewar, which symbolizes not only Okinawa's prosperity but the fact that Okinawa is a good place in which to live.

Despite these facts, deliberately incorrect information about Okinawa is being spread internationally. According to these sources, the people of Okinawa are being hurtfully discriminated against by the central government. Moreover, the presence of American bases in Okinawa, as per the Japan-U.S. Treaty of Mutual Cooperation and Security, is, according to these views, an overwhelming and intolerable burden on the people of Okinawa. These assertions are fictitious and untruthful, however, filled with political motivations.

I am a resident of Okinawa Prefecture, born and raised here. As a citizen of Japan, I am deeply worried about the misleading information of Okinawa that is being spread internationally. This is because these wrong impressions lead to incorrect opinions internationally. These opinions could lead to actions taken that will not be to Okinawa's benefit, and could actually harm it. In the United Nations of all places, it is imperative that correct information be relayed. The United Nations plays an important role in international society, but if the United Nations works from mistaken assumptions, it is in danger of losing its prestige and the trust toward it in the international community. This would signify a deep loss for the world.

So let's look at the facts, versus what the secessionists are saying. First is the propaganda that the residents of Okinawa Prefecture, Japan, are actually an indigenous minority people. This is a politically charged opinion held by a handful of individuals, and is not supported academically. These individuals claim that the Ryukyu dialect, one of several dialects in the Japanese language, is its own language, but this, too, is not supported by linguistic studies. Falsely stating the structure of the language is different—when in fact it is the same—is evidence that it is being done for political, not learned, reasons.

Itokazu Keiko, an Upper House member of the National Parliament from Okinawa, stated at the United Nations World Conference on Indigenous Rights and at the United Nations Human Rights Council that the people of Okinawa Prefecture are an indigenous people, that the Japanese and U.S. governments have forced the bases on the people, that they are experiencing persecution, etc., but have not supported their assertions with any scholarly findings. One special characteristic is that her claims are identical to the interests of China. Interestingly, although she claims to be interested in protecting the rights of the people of Okinawa Prefecture, she does not protest when China militarily pressures Okinawa or violates its territorial waters. She is applying double standards, and appears to be simply representing Chinese interests. It is not only her; the local newspapers in Okinawa, local scholars and commentators share a stance that is anti-Japan, anti-U.S., and pro-China. Their statements tend to be completely lacking in fairness or balance, and often are lies and outright fabrications. This tendency is particularly bad with regard to commentary about U.S. bases in Okinawa. The relocation of U.S. Marine Corps Air Station to Camp Schwab being pursued by the two national governments at the request of local leaders is meant to remove the danger of an airfield being located proximity to a city that has grown up around it, and will increase the safety of the residents by moving near the coastline farther north in a sparsely populated area. In addition, many of the U.S. facilities, both numerically and area-wise, are also destined to be returned, which should in theory be supported by the anti-base forces, but have actually been opposed, thus, paradoxically preventing substantial land returns.

This contradiction exists because the real objective of the above individuals is to rid Okinawa of U.S. bases, in particular the U.S. Marine Corps. They become forced to tell a lie, as if they were "anti-war, peace activists," when in fact their motives are deeper than that. This is clear by the fact that if they were truly interested in resolving the safety issue surrounding the air station than they would support its relocation, but instead they misrepresent the relocation as the construction of a "new base" and thus oppose it. The relocation has been proceeding, but professional protesters have done all they can to interfere with it. These activities go against Japanese law, and are illegal. The protesters, therefore, who are subject to arrest, instead make charges of oppression by the government acting extra-constitutionally or state other outright lies. They are able to get away with these accusations due in part to having the full support of the local newspapers and mass media, as well as the fact the local media essentially has sway over public debate of issues through its ability to control the flow of information. In this sense, it is necessary for the international community to objectively analyze the information that comes from Okinawa via the media. Alternative or conservative views, critical of the ideology and actions of the so-called peace movement, or in support of the national government or U.S. bases, are not found in the newspapers, its commentaries, or its editorials. The lack of balance and objectivity prevents a balanced discussion, and hence the only information that is presented is warped and skewed, with the image being presented of Okinawa as oppressed and abused when nothing further is the case. This occurs in part because the secessionists are so determined to pursue their fundamentalist view of Okinawa as separate that they fail to see the dangers presented by aligning themselves with Chinese territorial ambitions. What we see happening today in the South China Sea will likely happen in the East China Sea as a result of their actions.

In this way, the problem that exists in Okinawa is essentially a fabrication by those possessing an anti-Japan, anti-U.S. way of thinking. It is necessary to make clear that the idea of an indigenous Ryukyu people or the description of the relocation of a base function to northern Okinawa as a "new U.S. base at Henoko," discrimination against Okinawa, heavy burden of the bases, Okinawa's right to self-determination, and oppression by the central government are all, frankly, lies. This is an issue that also affects the prestige and reliability of the United Nations. In this age, the progress in technology has brought an end to demagoguery. This is something these secessionists, these demagogues, should be aware of. This is good news for international society, and matches the principles of the United Nations. The people of Okinawa Prefecture hope that the United Nations and its other bodies have a true understanding of the situation in Okinawa, and not one presented by the secessionists.

Editor Masako Ganaha

United Nations A/HRC/30/NGO/80

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 5
Human rights bodies and mechanisms

Written statement* submitted by the International Career Support Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15058(E)

Please recycle

Okinawa as an important strategic place and the people of Okinawa Prefecture's awareness

The relocation of U.S. Marine Corps Air Station at Futenma to Camp Schwab at Henoko is being pursued by The Japanese and U.S. governments. However, Governor Takeshi Onaga of Okinawa Prefecture misrepresents the relocation as the construction of a "new base" and thus opposes it.

This relocation is meant to remove the danger of an airfield being located proximity to a city that has grown up around it, and will increase the safety of the residents by moving near the coastline father north in a sparsely populated area.

This plan will achieve consolidation and reduction of U.S. military bases on main Island of Okinawa, both numerically and area-wise, maintaining functioning of security. Many Asian countries value Japan's security legislation based on the belief that Japan is a "Proactive contributor to Peace".

The people of Okinawa Prefecture aware that land returns from the U.S. are steadily being implemented and Okinawa has enjoyed political stability, a high degree of democracy, and all the benefits of freedom as a part of Japan. Also its socio-economic situation has greatly developed due to the special support given by the central government.

As the citizens of Japan, Okinawan people have will to contribute to global peace and stability. Okinawa is a place of strategic importance for East Asia and Western Pacific Ocean under the circumstance there is a country which tries to change the status quo by force or coercion in the East and South China Seas. The people of Okinawan Prefecture understand their role in bringing peace to international society and hope that the United Nations and its other bodies have a true understanding of the situation in Okinawa and the Okinawan people.

Toita Yoshiyuki

United Nations A/HRC/30/NGO/81

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15059(E)

Please recycle

Persecution of war crimes witnesses and victims seeking justice in Sri Lanka*

The UN Human Rights Council investigation (OISL) into the crimes committed during the final stages of the Sri Lankan civil war in May 2009 is expected to present its findings to the UNHRC in September 2015. OISL called for witnesses to give their accounts of Sri Lanka during the war; the Sri Lankan Government (GoSL) reacted by increasing fear and intimidation on the Tamil population in general and on the people publicising the OISL call in particular.
Most of the witnesses who came forward to OISL had fled the country since 2009. They provided compelling stories of the events they witnessed. But they did so under OISL assurances of anonymity fearing for the lives of their relatives in Sri Lanka. They fear for their lives if they go back to Sri Lanka and in numerous UK court cases, their fear has been found to be valid.

Sri Lanka is not a safe place for witnesses. The current UNHCR guidelines, which came into effect in December 2012, recognise certain 'Witnesses of Human Rights Violations' and 'Victims of Human Rights Seeking Justice' as a category of persons at risk in Sri Lanka. This was reaffirmed in the (current) United Kingdom asylum country guidance case[1] which found that individuals who have "given evidence … implicating the Sri Lankan security forces, armed forces or the Sri Lankan authorities in alleged war crimes" are at "real risk of adverse attention or persecution on return as potential or actual war crimes witnesses." Thus, if prosecutions are conducted in Sri Lanka, the vast majority of witnesses who contributed to the OISL will not be able to provide evidence.

Eye witnesses

Almost all witnesses to OISL did so under assurances of confidentiality. In August 2015 Together Against Genocide [TAG] re-interviewed OISL witnesses on their attitudes towards testifying in Sri Lanka. All interviewees re-affirmed they cannot safely testify in Sri Lanka. Below are some of the more serious war crimes they witnessed:

Cluster bombs

"When it exploded, within five minutes the area would be destroyed. Within that noise, 500-600 people would vanish like that."

"The government for the first time threw cluster bombs into that protective zone … one of them exploded and two or three people died. After 4-5 minutes, 100-200 people started dying."

"People arrived like onions, their skin was black and would fall off … When we went there to help and carry people we saw how their skin peeled off. No one who was brought there could be saved."

Targeting hospitals

"People were under trees and next to bunkers in tents…. The cluster bomb hit the hospital ward and the pieces hit the trees. [The hospital] was destroyed at the side walls."

"[The hospitals were intentionally hit] … There were so many people, there were signs, there were ambulances, there were drone flights above as well. So they knew exactly what was going on there … There was a cross-printed white flag at the entrance of the hospital, and above the trees so that you could see it from the air and the rooftop was also painted with a cross so that you could see it."

Killing those surrendering

"They took them there, tied their hands and legs and used the sand of the walls to bury them alive while they were begging and praying"

"At the end, there were around 400 meters between us and the army. We saw those who were at the back of the group, shells were hitting from all sides…those who were half a km behind us were dying en masse. Those were people who were about to surrender."

"When we walked [to surrender] … on both sides soldiers were on the ground, so when we walked people were pushing and running towards the army. I watched how from both sides the army shooting at people who were walking at the edges. They were running towards the road from the forest, when they were running towards the bridge, the army was shooting from 300-400 meters afar the people from right there. … We were watching it. We

[1] GJ and Others (post-civil war returnees_ Sri Lanka CG [2013] UKUT 00319 (IAC) [7(d)], reaffirmed by the Court of Appeal in MP, NT v Secretary of State for the Home Department [2014] EWCA Civ 829]

watched how they captured young boys who were standing next to us, between 20-30 years and making them sit down on the sides. They sat them down right there and began executing them. Bodies were already amassing there."

Raping those surrendering

That was the time when we surrendered to the army when I saw with my own eyes how they raped them in front of us. I saw many rapes happening. My sister also died after being raped.

I saw how they bit the breasts, the cheeks and raped them…they shot them in front of us.

Unsafe to speak

Sri Lanka continues to be unsafe for those prepared to speak of war crimes they witnessed. While intimidation of the general population continues, people identified as potential witnesses and their relatives continue to be specifically targeted.

The GoSL reaction to the OISL call for witnesses in Sri Lanka was to target potential witnesses or those who could facilitate witness communication. The Sri Lankan military ordered internet cafe owners to alert the authorities of anyone scanning or copying documents to be sent to OISL.[2] A man was arrested in Kilinochchi for distributing OISL evidence collection forms.[3] In March 2015, 8 people were arrested for making a documentary, which contained scenes portraying the Sri Lanka Army as "immoral, inhumane and atrocious"[4].

While witnesses are willing to give testimony in camera outside Sri Lanka, they fear death upon return to Sri Lanka and they fear for their families left behind.

"If I didn't have children, I'd surely provide testimony because I'm not that sad about dying. They will certainly kill us. The moment we will give testimony, they won't let us go. They will certainly kill us in one way or another. They won't let us stay alive."

"I can't return to my country anymore. If I do, they will certainly arrest me. If they arrest me, a lot of troubles with start and I don't think they will keep me."[5]

"We cannot provide testimony for a tribunal in Sri Lanka. When the UNHRC was talking to us there, the government already gave us limits to how much we could say. Those who did were beaten … So there is certainly no way to say the truth there."

Persecution

The UK courts recognise that those who are identified as witnesses in Sri Lanka continue to be in danger. The Court of Appeal confirmed that witnesses already known to the GoSL for giving statements to the LLRC are at a real risk of persecution.[6] Recent cases have extended this, to find even those who have been willing to testify more generally were in danger of targeting by the GoSL.

In GT [2013], where the appellant had disseminated information on the use of banned weapons, the tribunal found:

"He is, I consider, quite evidently at equal risk as he would be if he were a journalist as his actions are implicitly critical of the government and expose it to criticism or opprobrium, not just locally but internationally."

In PS [2015] the court found that as the appellant had given evidence to an international organisation, he was of adverse interest to the authorities and consequently at risk of torture in detention in Sri Lanka.

"I find also that someone who has given evidence of genocide or war crimes by Sri Lankan forces is likely to be viewed as working towards the destabilisation of the government".

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[2] <http://www.tamilnet.com/art.html?catid=13&artid=37450> 26 October 2014

[3] <http://www.tamilguardian.com/article.asp?articleid=12682> 26 October 2014

[4] <http://tamilguardian.com/article.asp?articleid=14233> 30 March 2015

[5] All Interviews August 2015

[6] GJ and Others Sri Lanka CG

In SA [2014], the tribunal found that a journalist who had provided evidence on the last stages of the war, would be at risk if he was returned to Sri Lanka. The judgement notes:

> *"On the evidence I have, I regard it as improbable that he would be able to negotiate the airport successfully."*

In SG [2015] the court found SG was at risk of persecution for reasons including:

> *"he has given detailed evidence of events in Sri Lanka which would tend to substantiate alleged war crimes being committed by the Sri Lankan army"*

Conclusion

Sri Lanka is not a safe place for witnesses willing to speak up against the GoSL or for victims seeking justice. Witnesses in Sri Lanka who have spoken out, and any witnesses outside Sri Lanka who have provided testimony, are at risk of persecution if they return to Sri Lanka to testify. If prosecutions are conducted in Sri Lanka, regardless of whether under domestic or international mechanisms, the vast majority of witnesses who contributed to the OISL will not be able to provide evidence safely.

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*United Against Genocide (TAG), NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/30/NGO/82

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the HelpAge International, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15061(E)

Please recycle

Written statement by HelpAge International on the 2nd annual report of the independent expert on the enjoyment of all human rights by older persons (A/HRC/30/43)

HelpAge International regrets that at the time of submission of this written statement the 2nd Annual Report (A/HRC/30/43) of the Independent Expert on the enjoyment of all human rights by older persons (hereafter the Independent Expert) was not available. This makes it impossible for us to comment on the content of the report.

However, we have been encouraged by the work of the Independent Expert over the past year. Older people from our partner organizations met with her during her country visits to Slovenia and Mauritius. We contributed to and look forward to the outcome of her consultation on the extent to which the Madrid International Plan of Action on Ageing has enhanced protection of the rights of older persons.

The rights of older persons are, however, not the domain of a single person. We welcome the fact that the Independent Expert has collaborated on joint statements with special procedures on the right to health, freedom from torture, the rights of persons with disabilities, discrimination against women, violence against women, contemporary forms of slavery and the right to food, drawing attention to human rights in older age in relation to violence and abuse (15 June 2015), disability (20 February 2015), violence against internally displaced women (25 November 2014) and palliative care (11 October 2014).

The Independent Expert has been tasked with assessing "*the implementation of existing international instruments with regard to older persons while identifying both best practices in the implementation of existing law related to the promotion and protection of the rights of older persons and gaps in the implementation of existing law*;"(A/HRC/RES/24/20).

Improving the way Member States use existing human rights instruments in relation to their human rights obligations towards older people is also something that HelpAge supports. We have worked with a variety of special procedures and been submitting shadow reports on the rights of older people to treaty bodies since 2007 and stakeholder reports to the Universal Period Review system since 2008. We want to see the whole UN human rights system be more responsive to violations of rights in older age. We look forward to the outcomes of the Independent Expert's assessment in her comprehensive report to the Human Rights Council in 2016.

Nonetheless, it is evident that there are significant barriers to using the existing framework to adequately protect and promote the rights of older persons. A review HelpAge conducted of the two Universal Periodic Review cycles to date, using the UPR database (http://www.upr-info.org/database/), showed that only 113 out of 38,298 recommendations, that is 0.3%, have referred to older people. Only four of those recommendations were specifically on the elimination of discrimination in older age.[1]

This invisibility is not confined to the Universal Periodic Review system. We also used the Universal Human Rights Index (http://uhri.ohchr.org/search/annotations) to review recommendations made across other human rights mechanisms. There have only been 115 specific recommendations on the rights of older persons across all the Special Procedures and Treaty Bodies since 1999 and there is no sign of an increase in attention over time. Even the adoption of the CEDAW general recommendation on the rights of older women in 2010 has not resulted in an increase in recommendations on older women's rights.[2]

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[1] UPR Database, Search under key words: *older persons, elderly, old age, older people*, http://www.upr-info.org/database/ Visited 30th June 2015

[2] Universal Human Rights Index search for older persons (a listed affected group). http://uhri.ohchr.org/search/annotations Visited 1st July 2015

In July this year, the Independent Expert made a statement to the sixth session of the UN Open-ended Working Group on Ageing (hereafter the Working Group). The Working Group was established in 2010 by UN General Assembly resolution A/RES/65/182 to consider the existing international framework of the human rights of older persons and to identify possible gaps and how best to address them, including by considering the feasibility of new instruments and measures.

Over the course of six sessions, a consensus has been reached in the Working Group that there are serious human rights implementation and protection gaps that need to be urgently addressed. It has been established that older persons are subjected to ageism, discrimination and denial of their human rights across different aspects of their lives. It has also been established that the existing international human rights framework is not adequately addressing these undisputed human rights challenges that older persons are subjected to (Report of the Chair A/AC.278/2015/2).

However, despite this progress, the Working Group has failed to address a significant part of the mandate entrusted to it by the UN General Assembly. Only ninety minutes has been spent, in the fourth session in 2013, discussing a proposal containing the main elements of an international legal instrument which the Working Group was mandated to present to the UN General Assembly in the 2012 resolution A/RES/67/139. A mere sixty minutes was dedicated to the concrete proposals submitted by Member States under 2014 resolution A/RES/69/146 at the sixth session in July 2015.

Older people, civil society, a number of Member States and the Chair of the Working Group were in agreement at the sixth session that the current format of the Working Group is preventing it from fulfilling its mandate in its entirety. The format of general discussion, panel presentations and interactive dialogues has not allowed enough time for working on the contents of a new convention. This format must change if the Working Group is to fulfil its mandate in its entirety.

A resolution at the 70th UN General Assembly is the opportunity to bring about this change. There are a number of possible formats. An ad hoc committee or special committee could be set up. The process could be inter-governmental or expert led. A number of proposals on the contents of a new convention have already been submitted by Member States and serve as a starting point for developing the contents of a new convention whichever modality is chosen.

To conclude, the establishment of a new special procedure dedicated to the rights of older people was a major step by the Human Rights Council. It showed that UN Member States recognised that discrimination and denial of rights in older age are human rights issues of considerable concern. We look forward to the Independent Expert's comprehensive report in 2016. However, a three-year term is a short one given the number of issues pertaining to the rights of older people that would benefit from the scrutiny of the mandate. We therefore urge Member States to not only renew the mandate for a second term without hesitation, but also to renew it with sufficient resources to ensure that it can be effectively implemented by the mandate holder.

United Nations A/HRC/30/NGO/83

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15062(E)

Please recycle

Slavery in Mauritania

Mauritania routinely ranks among the states in the world where the prevalence of slavery is the highest. With between 4 percent and 20 percent – depending estimations – of its 3.8 million population in slavery, Mauritania's judiciary has only prosecuted one slave owner for the crime of slavery since the 2007 anti-slavery law was passed.

The UN Special Rapporteur on Contemporary Forms of Slavery noted after her 2014 country visit that the 2007 Anti-Slavery law relies solely upon the police and judiciary, who "have shown a reluctance to follow up on allegations of slavery-like practices, with most cases being closed without any proper investigation", and that "the burden of proof lies on the victim".

Case of Biram Dah Abeid and Brahim Bilal Ramdhane

Society for Threatened Peoples is disappointed about the fact that an appeals court in Mauritania has confirmed that Biram Dah Abeid, winner of the Weimar Human Rights Award and anti-slavery activist, and his deputy Brahim Bilal Ramdhane will have to serve a two-year prison sentence. There is no justice for abolitionists in Mauritania. The court proceedings – which took place in camera – were all but fair. The authorities had decided to move the proceedings to the provincial town Aleg in order to avoid demonstrations. As a form of protest, the defendants did not attend the appeal proceedings.

Mr Abeid and Mr. Ramdhane were seeking to empower marginalised communities to know and defend their rights through awareness-raising. They aimed to challenge the societal status quo in which the Arabo-Berber ethnic group – the traditional slave-owning class - accounting for around 20-25 percent of the Mauritanian population - hold most positions of power; in the police, judiciary, politics, religion and education.

On January 15, 2015, the two well-known human rights activists were sentenced to two years in prison for participating in a demonstration against slavery and for allegedly being involved in an unofficial organization. In 2013, Biram Dah Abeid was awarded the United Nations Human Rights Prize for his commitment against slavery in the scope of the Abolitionist-movement IRA – but the Mauritanian authorities refused to recognize the human rights organization nonetheless. In 2011, Biram Dah Abeid had been honored with the Weimar Human Rights Award.

Before the appeal hearing on August 20, 2015, the security forces had shielded the court building and established a no-protest zone. Journalists, representatives of other human rights organizations and about 200 supporters of the IRA were not allowed to attend the proceedings. Before, the defendants' lawyers had tried to protest against the measures, accusing the authorities of moving the proceedings to a remote province to avoid public protests and to keep friends and relatives from attending the proceedings.

The disputes about ongoing slavery in Mauritania are damaging the country's international reputation. To show commitment in the struggle against slavery, the government had adopted a new law in August 2015, defining slavery as a "crime against humanity" as well as criminalizing "10 other forms of slavery" aside from conditions involving loss of freedom and work without pay. However, Mauritania's assurances are not credible as long as the existing laws are not used to actually punish slaveholders and as long as abolitionists are being silenced.

Death sentence for apostasy

On Christmas Eve 2014, a court in the city of Nouadhibou sentenced the 29-year-old Mohamed Cheikh Ould Mkhaitir to death by shooting for allegedly defaming the prophet Mohamed. The young man was accused of publishing an article on the Internet, in which he is said to have questioned the prophet Mohamed as well as the existing social order in Mauritania. He had been arrested on January 2, 2014, and had since been held in custody. He insisted that his criticism had been misunderstood. The defendant stated that he had not wanted to defame the prophet, but merely wanted to draw attention to a social problem. He fainted during the sentencing. Unto this day, Mohamed Cheikh Ould Mkhaitir is still on death row.

This is an attempt to silence critics who work against the exclusion of the discriminated caste of the blacksmiths in Mauritania. In recent years, there has been an initiative to work against the marginalization of the blacksmith caste by organizing press conferences, events and human rights campaigns to draw attention to the cause and to demand an end to the discrimination. Referring to the example of the descendants of the black African slaves, they had called for a more open society in Mauritania. The death sentence is an attempt to silence critics who work against the exclusion of the discriminated caste of the blacksmiths in Mauritania. In Mauritania, there had previously been no more enforced death penalties since 1987. The death sentence was applauded in the courtroom as well as in public.

Society for Threatened Peoples calls on the Human Rights Council to call on the government of Mauritania to immediately release Biram Dah Abeid and Brahim Bilal Ramdhane. Mohamed Cheikh Ould Mkhaitir must also be released. Mauritania must be remineded of its obligations to uphold international law as it relates to the rights of human rights defenders and to combatting slavery.

United Nations A/HRC/30/NGO/84

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15063(E)

Please recycle

Situation of human rights of lawyers, judges and human rights defenders in the Islamic Republic of Pakistan

Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Human Rights Council's attention to the challenges faced by lawyers, human rights defenders and judges in the Islamic Republic of Pakistan who work with on sensitive human rights issues such as blasphemy cases, and who pursue justice for religious minorities.

Background

Articles 9, 25, 75 and 203 of the Constitution of Pakistan, 1973, provide for the independence of judiciary. The safety of lawyers, judges and human rights defenders is integral to Pakistan's duty under the International Covenant on Civil and Political Rights which includes the obligation to protect the right to life (Article 6); the right to fair trial by competent, independent and impartial tribunal (Article 14); and equality before the law (Article 26).

During the second cycle of the Universal Periodic Review (UPR) in 2012, Pakistan accepted several recommendations regarding human rights defenders (HRDs). It agreed to combat impunity for attacks on human rights defenders by effectively investigating allegations, prosecuting those responsible, implementing measures to protect the right to life and freedom of expression, and ensure that perpetrators of violence are brought to justice.

The lack of protection of judiciary in Pakistan was highlighted in 2012 by Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers. She raised concerns about the number and nature of reported cases of threats, attacks and killings of judges and lawyers. According to CSW's partners in Pakistan, the situation for lawyers and judges has worsened in recent years. The volatile security situation, growing religious fundamentalism, and complex political circumstances in Pakistan make their work very dangerous. Activists, lawyers and, district level judiciary have been threatened and killed throughout Pakistan, and those responsible for these violations continue to enjoy widespread impunity. Threats to HRDs stem from multiple quarters, including state and non-state actors and religious and political groups, and in some cases the local community, district administration and police.

Current situation of lawyers

Lawyers defending blasphemy-related, or other sensitive cases relating to minority issues, frequently face threats of violence, sometimes leading to death. On 7 May 2014 a lawyer from the Human Rights Commission of Pakistan, Rashid Rehman, was shot dead by gunmen in front of colleagues in his office, for defending a university lecturer accused of blasphemy. After Rehman's killing, Shahbaz Gormani, the lecturer's new defence counsel, was attacked at his residence by gunmen on motorcycles on 3 December 2014. The attackers warned there would be violent consequences if he pursued the case.

This year in May, lawyers Rana Khalid Abbas and Irfan Chauhan were killed by police in a demonstration by lawyers regarding an anti-encroachment operation in the city of Daska, Punjab.

CSW has received reliable information about various forms of harassment experienced by lawyers defending people accused of blasphemy. The lawyers face frequent intimidation and harassment, both in their homes and in the courtroom. They are frequently barred from entering courtrooms or judge's chambers. Once in the courtroom, they may face hostility from violent mobs. Religious extremist organisations regularly attend court hearings in order to intimidate the defence counsel and increase tensions by chanting religious verses and slogans. Extremist organisations such as Sipah-e-Sahaba Pakistan (SSP) often organise busloads of protesters for this purpose.

In 2013 minority lawyers filing a bail petition for Shagufta Kausar, a woman convicted of blasphemy together with her husband for allegedly sending text messages insulting Islam, were threatened in court by extremists with lethal weapons. The lawyers were warned to "leave the case or be ready to die". The lawyers reported the case to the judge but no action was taken; in fact, the judge transferred the case as he did not want to hear it. On 12 February 2014, while

returning from the Lahore High Court after defending Arif Masih, a Christian Pakistani accused of blasphemy, the same lawyers were stopped by two motorcyclists with guns. The assailants threatened to kill them. The lawyers were stopped again in Lahore and threatened that if they did not abandon the case, extreme steps would be taken.

The same minority lawyers have also been threatened and harassed while working to bring justice to the Christian community in Youhanabad, after a double suicide attacks on two churches on 15 March 2015. On 1 April 2015, lawyers filed a written petition in the court against the government of Punjab concerning misconduct by police officials. After the order was passed, the lawyers began to receive death threats from local police and religious extremists for their work defending the rights of Christians in Youhanabad.

Lawyers dealing with blasphemy cases and rights of minorities continue to face violence and harassment in Pakistan, and the examples above illustrate the nature of this harassment. However, the harassment remains systematic and is likely to affect most lawyers who deal with sensitive cases.

Current situation of judges

Judges also face significant challenges, which can undermine their independence and that of the legal system. Several judges have been physically attacked and threatened with torture even during the court hearings. Many judges are afraid to hear prominent minority cases for fear of reprisal, making progress in these cases painfully slow. In 2011 Pervez Ali Shah, the judge who sentenced Governor Salman Taseer's murderer to death, had to leave Pakistan following harassment and death threats. In August 2015, district and sessions judge Tahir Khan Niazi was shot and later died after an attack by Tehreek-e-Taliban (TTP) in Rawalpindi.

As far back as 2012, Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers, expressed concerns that judges have been coerced to decide against the accused even without supporting evidence, and to convict people accused of blasphemy.

Challenges faced by other human rights defenders

The situation for other human rights defenders **(HRDs)** remains equally challenging, and the space in which civil society operates is diminishing. In 2015 the government transferred registration of INGOs to the Interior Ministry, with proposals to review laws and regulations regarding the registration and activities of INGOs. The proposed legislative changes have raised further concerns about the government's intention to crackdown on dissent. As a consequence, several NGOs have already stopped their work on sensitive human rights issues.

The government of Pakistan fails to provide protection for and guarantee the human rights of lawyers, judges and human rights defenders operating in the country. The harassment of lawyers and judges violates fundamental human rights and undermines the rule of law and the independence and integrity of the courts, as well as the democratic development of Pakistani society. Intimidation of lawyers, and violence and threats against them, undermine the wider right to a fair trial. Rule of law remains weak in general.

The work of lawyers, judges and human rights activists in Pakistan is key to the advancement of religious minorities' rights, and the harassment they experience reflects a wider problem of intolerance, hate speech and religiously-motivated violence. Violence and threats against lawyers, judges and human rights defenders promoting equal rights and justice for religious minorities, are embedded in the institutionalised discrimination against religious and other minorities.

Recommendations to the Human Rights Council

Jubilee Campaign together with CSW therefore encourages the Human Rights Council to:

1. Urge the government of Pakistan to honour its obligation under the constitution and international treaties to protect those defending human rights, including lawyers and judges, and to ensure they are not intimidated or harassed for their professional activities.

2. Urge the government of Pakistan to combat the culture of impunity and bring to justice all perpetrators of attacks and threats against lawyers, judges and human rights defenders.

3. Urge the government of Pakistan to extend a standing invitation and to fully collaborate with all UN Special Procedures, and to respond promptly to outstanding correspondence from Special Procedures mandates.

4. Urge the government of Pakistan to take steps to end religiously-motivated violence, intervene effectively to stop violence where it occurs, protect religious minorities, address hate speech and incitement to hatred and violence, and promote freedom of religion or belief for all.

5. Urge the government of Pakistan to guarantee the rule of law and protection for minorities using all appropriate measures, including conditions of fair trial, police protection for witnesses, judges and lawyers during court proceedings in blasphemy cases. The government should establish a special police taskforce to protect religious minorities, as indicated in the Supreme Court verdict in 2014.

6. Call on the international community to provide support to human rights defenders, lawyers and judges and civil society organisations in Pakistan documenting human rights violations and disseminating this information;

7. Urge the government of Pakistan to establish an open multi-stakeholder platform for further consultations on the proposed legislation to regulate NGOs and INGOs working in Pakistan.

United Nations A/HRC/30/NGO/85

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15064(E)

Please recycle

Yemen Crisis

Yemen Crisis Surpasses 150 Days And 4,500 Victims;, nearly 2,000 [1]of them were civilians, 400 of which were children. That is an average of eight children killed or injured every day, according to UNICEF[2]. "This conflict is a particular tragedy for Yemeni children", said UNICEF Representative in Yemen, JulienHarneis. "Children are being killed by bombs or bullets and those that survive face the growing threat of disease and malnutrition. This cannot be allowed to continue", he added.[3]

United Nations' humanitarian coordinator, Johannes Van Der Klaauw, said Yemen had become "a humanitarian catastrophe." [4]And it is one that is likely to get worse and civilians are left without medical aid. Even Humanitarian Aid Groups Are Targeted, as hospitals and rescue teams in the field were increasingly targeted, it has become too dangerous for medical aid organizations to provide help for civilians.

Humanitarian aid groups say that the situation is growing worse every day with shortages of food, water, medicines and other essential services. Millions of people are in need of assistance in Yemen, and 1.2million people been displaced[5], and million in Millions in Yemen on brink of starvation, Oxfam warns[6]

The conflict continues to take a serious toll on civilians, both in terms of direct violence and in terms of the effect on many economic, social and cultural rights. The right to food, water, education and health are severely undermined. Water is unavailable or available sporadically in 20 out of 22 governorates. About 1.6 million girls and boys under the age of five are estimated to suffer from acute malnutrition and are in need of urgent treatment.[7] An estimated 1.84 million children have been affected by the closure of 70 per cent of the schools across the country. And in Aden, the humanitarian situation is particularly dire, with limited availability of food and the absence of diesel for the main water supply and to provide generator power for hospitals and clinics.

In the case of use cluster bombs in early May, Human Rights Watch[8] accused Saudi Arabia of using US-supplied cluster munitions in Yemen, especially in the northern Sa'ada governorate. The particular cluster munitions systems reportedly used are CBU-105 Sensor Fused Weapons,[9] which are guided bombs intended to take out tanks and other armoured vehicles with a flurry of explosions spread out over an area. The Saudi military acknowledged using CBU-105 bombs, but claimed that they were only employed against armoured vehicles and not in population centres, and accused Human Rights Watch of getting information from the Houthi militia.[1]

The use of cluster bombs is severely condemned in international law. It has been prohibited under any circumstances by the Convention on Cluster Munitions of 2008,[10] which forbids the use, manufacture, transfer, stockpile and incitement to the use of cluster bombs over an area (art. 1).[11] The critical aspect of this type of bomb is its capability to disperse sub-munitions over an area, which, failing to detect their target, may lay dormant and unexploded until people stumble upon them. For its indiscriminate effects, such bombs are considered to pose a lethal danger to the civilian population in an armed conflict.

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[1] http://www.un.org/sg/spokesperson/highlights/?HighD=8/18/2015&d_month=8&d_year=2015
[2] http://www.unicef.org/media/media_82940.html
[3]http://www.unicef.org/media/media_82940.html
[4]http://www.un.org/apps/news/story.asp?NewsID=51504#.VdzThGb9q2w
5 http://www.unhcr.org/pages/49e486ba6.html

[6]http://www.reuters.com/article/2015/07/28/us-yemen-security-hunger-idUSKCN0Q226B20150728

[7]http://www.ohchr.org/AR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16253&LangID=E
[8]http://www.hrw.org/news/2015/05/03/yemen-saudi-led-airstrikes-used-cluster-munitions
[9]http://edition.cnn.com/2015/05/03/middleeast/yemen-hrw-cluster-munitions-saudi-arabia/

[10]http://www.clusterconvention.org/files/2011/01/Convention-ENG.pdf

[11]https://www.icrc.org/ihl/INTRO/620?OpenDocument

Direct and indiscriminate attacks on civilians and civilian objects, as highlighted above are prohibited by the international laws of war. [12]Further, prohibited indiscriminate attacks include, among others attacks, area bombardment that treats as a single military objective a number of clearly separated and distinct military objectives, in an area containing a concentration of civilians and civilian objects. [2]

We are deeply concerned that coalition attacks on civilian, medical, and aid centers constitute a significant violation of international humanitarian law, and could potentially rise to the level of war crimes committed against the civilian and refugee populations in Yemen.

According to the Geneva Conventions, which is part of customary international law, and which all members of the coalition have universally ratified, the coalition is required to conduct hostilities in a manner that targets only legitimate military objectives, without engaging in indiscriminate attacks or the intentional targeting of civilian populations.

In light of substantial evidence that many of these principles have been ignored, we must strongly urge the coalition governments to extend the impending ceasefire in Yemen, and to guarantee that any further military action adheres to the provisions of international humanitarian law. The coalition must respect its commitments towards civilians, medics, and aid workers caught in the conflict, and cease the targeting of civilian and refugee population centers and medical treatment and aid facilities.

We also recommend the international community to set out all the necessary measures to initiate investigations on the alleged use of cluster bombs over densely populated areas. Taking into account that no member of the coalition are party to the Convention on Cluster Munitions, however other treaties should be referred to and applied, such as the 1997 Mine Ban Treaty,[13] ratified by Jordan, Kuwait, Qatar. and Sudan, and the 1980 Convention on Certain Conventional Weapons, ratified by Saudi Arabia, Jordan, USA, UAE, Kuwait.[14]

We call the HRC members at the next HRC 30th Session in September, should act to break the culture of impunity in Yemen and adopt a resolution to establish an international commission of inquiry to investigate alleged abuses and violations of international humanitarian law and international human rights law by all parties since September 2014, including in connection with the air and sea blockade imposed by coalition forces. The investigation should establish the facts, collect and conserve information related to abuses and violations, and identify those suspected of criminal responsibility for serious abuses and violations with a view to ensuring that they are brought to justice in fair trials.

The Human Rights Council, in its resolution 27/19 adopted in September 2014 on Yemen,[15] unanimously called for "an investigation into all cases of violations and abuses of human rights and cases of violations of international humanitarian law." The Office of the High Commissioner for Human Rights also encouraged the establishment of an international mechanism to investigate human rights violations that had taken place during the uprising in 2011. The failure to adequately implement those recommendations by both domestic and international actors further fuelled the culture of impunity in Yemen.

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[12] https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule11
[13] http://www.un.org/Depts/mine/UNDocs/ban_trty.htm
[14] https://www.icrc.org/ihl/INTRO/500?OpenDocument
[15] http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G14/171/03/PDF/G1417103.pdf?OpenElement

United Nations A/HRC/30/NGO/86

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15123(E)

Please recycle

The war on Yemen must be investigated

UN declares a 'Level 3'[1] humanitarian emergency in Yemen

On 2 July, the United Nations added Yemen to the list of highest-level humanitarian emergencies; a level 3 crisis. The country is facing a humanitarian catastrophe, with 21 million people, 80% of Yemen's population, in need of humanitarian assistance. A major food crisis is looming.

EDUCATION

More than 3,600 schools to close and driven students and their families to safer areas of the country. At least 248 schools have been directly damaged; is having a devastating impact on the country's education system – and on the chances of millions of children to access learning. 270 others are hosting Internally Displaced People (IDPs).[2]

Health and food

Meanwhile, over 2.5 million children are at risk of diarrhea due to the unavailability of safe water, poor sanitary conditions and lack of access to Oral Rehydration Salt (ORS)[3] -- compared to 1.5 million prior to the conflict.

"The damage to Yemen's next generation may become irreversible if we don't reach children quickly with the right food at the right time. We must act now before it is too late," said Ertharin Cousin, WFP Executive Director.[4]

Food shortages, lack of fresh water, and low fuel stocks have created a "perfect storm" for the Yemeni people, the WFP estimated nearly 13 million people urgently require help.[5]

According to a recent joint survey released by the UN Food and Agriculture Organization (FAO) and the World Food Programme (WFP)[6], 6 million people in Yemen are slipping towards severe hunger and now need emergency food and life-saving assistance. In addition to the population facing a food security 'emergency,' over 6.5 million people are classified as facing a food insecurity security 'crisis.'

The conflict exacerbates the country's extremely fragile food security situation. WFP estimates that the number of food insecure people in "Right now, the conflict-driven convergence between the lack of staple food, access to clean water, and a diminished fuel supply create the dawn of a perfect storm for the most vulnerable Yemeni people," addCousin. [7]

The health sectors is too been targeted by Saud Air strikes, many of the medial centers have been leveled, while more than 54 health centers have also been shut down due to these air raids. The representative of the World Health Organization (WHO) in that country, Ahmed Shadoul, on 24th August,2015,[8]warned against human catastrophe in

[1] http://www.rescue.org/blog/l3-101-basics-level-3-emergencies
[2]http://www.unicef.org/mena/media_10454.html
[3]http://www.unicef.org.uk/Media-centre/Press-releases/Millions-of-children-in-war-torn-Yemen-at-risk of-disease-and-malnutrition--Unicef/

[4]http://www.wfp.org/news/news-release/wfp-head-warns-growing-food-crisis-yemen-amid-challenges-reaching-people-and-short
[5]http://www.bbc.co.uk/news/world-middle-east-33999099
[6] http://www.un.org/apps/news/story.asp?NewsID=51187#.Vd8lumb9q2y
[7]
[8] http://www.un.org/apps/news/story.asp?NewsID=51711#.Vd8Uv2b9q2w

Yemen. He added that the state of health is deteriorating in Yemen on a daily basis and throughout a number of provinces of that country such as Aden Province many are unable to provide food, fuel, and drinking water for themselves, and are even deprived of medical treatment.

The coalition has ignored those calls and in fact intensified its military campaign, the statement of Johannes Van Der Klaauw referred to the impossibility of aid agencies getting emergency medical assistance and personnel into the country when the airports, the country's main lifelines, are being bombed by coalition warplanes. This is having a critical effect on the civilian population.

IDP

As of August 2015, 1,439,100 internally displaced people in Yemen[9]. Mass population movement and a failing health system have exposed internally displaced people in Yemen to increased, life-threatening health risks, people have fled the violence to neighbouring governorates. Many of them are housed in public spaces where living conditions are overcrowded and often unsanitary. Within schools, for example, some of which host upwards of hundreds of displaced Yemenis, people share a single washroom per gender.

Culture

On the night of 31st May One of the grandest engineering marvels of the ancient world—the Great Dam of Marib in central Yemen—has been damaged in an airstrike, according to local news reports and archaeological experts in touch with local sources.[10]

The Director-General of UNESCO, Irina Bokova, has condemned the airstrikes on the ancient city of Marib in Yemen and is calling on all parties involved in the conflict to refrain from targeting the country's unique cultural heritage.

This came just one week after the National Museum in Dhamar was completely destroyed. The museum contained some 12,500 artefacts bearing witness to the rich cultural heritage of the surrounding region.

Many other historical sites suffered collateral damage from the armed conflict, including the old cities of Sana' and Zabid, inscribed on the World Heritage List, as well as the historic centre of Sada'a, Mukallaand Taez. [11]

Conclusion

- Humanitarian pauses are urgently needed to safely bring aid workers and supplies into the country and for the aid to reach millions of people in need. This requires the support of all parties to the conflict to facilitate the safe passage of aid and unimpeded access for humanitarians to affected areas in accordance with IHL. Humanitarian operations by some 90 organizations are ongoing where possible, mainly through national staff and partners, but these efforts are far from enough given that imports of commercial supplies have also been hampered, increasing the vulnerability of ordinary Yeminis. Following temporary relocations, the UN and partners are exploring ways of redeploying international staff to Yemen in the coming days to support the response.

[9] http://www.internal-displacement.org/middle-east-and-north-africa/yemen/figures-analysis

[10] http://news.nationalgeographic.com/2015/06/150603-Yemen-ancient-Sheba-dam-heritage-destruction-Middle-East-archaeology/

[11] http://www.unesco.org/new/en/no_cache/unesco/themes/pcpd/dynamic-content-single-view/news/unesco_director_general_condemns_airstrikes_on_yemens_cultural_heritage/#.Vd7nAmb9q2w

- We call council members to prioritize civilians and work to ensure that humanitarian aid, including food, water and medical supplies, which are desperately needed, can reach Yemen to save lives. We also urge the members to live up to its obligations to the people of Yemen by imposing immediate humanitarian pause,. A pause that would allow international aid organizations to deliver urgently needed food, medicine, and fuel to citizens throughout Yemen. It would also allow for the delivery of vital commercial goods on which Yemen depends.

- We call the HRC members at the next HRC 30th Session in September, should act to break the culture of impunity in Yemen and adopt a resolution to establish an international commission of inquiry to investigate alleged abuses and violations of international humanitarian law and international human rights law by all parties since September 2014, including in connection with the air and sea blockade imposed by coalition forces.

- The investigation should establish the facts, collect and conserve information related to abuses and violations, and identify those suspected of criminal responsibility for serious abuses and violations with a view to ensuring that they are brought to justice in fair trials.
- We would like to draw your attention to The Human Rights Council,resolution 27/19 adopted in September 2014 on Yemen,[12] unanimously called for "an investigation into all cases of violations and abuses of human rights and cases of violations of international humanitarian law."

- We welcome any initiatives that seek to reduce the level of violence, notably shelling and coalition airstrikes in populated areas that harm civilians and civilian infrastructure. The country's airports and seaports constitute a lifeline given that Yemen relies on imports for 90 per cent of its food and most of its fuel. However, these lifelines have been hampered as most of Yemen's airports are not open to civilian traffic, and transports by sea are subject to the coalition's inspection regime related to the arms embargo mandated by the UN Security Council

[12] http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G14/171/03/PDF/G1417103.pdf?OpenElement

United Nations A/HRC/30/NGO/87

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the World Organisation Against Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15124(E)

Please recycle

End impunity for police torture in Pakistan system of forced arbitrary detention and forced disappearance fosters torture and impunity*

1. Police brutality and torture are endemic in Pakistan. Police relies upon confessions obtained through torture as the primary form of evidence and therefore, routinely abuses, arbitrarily detains and forcibly disappears civilians. Through its research and by representing torture victims, the World Organization against Torture **(OMCT)** and the Justice Project Pakistan **(JPP)** have observed that laws and police practice foster arbitrary detention and forced disappearance thereby facilitating systematic torture and impunity for such acts. As a result, (i) torture is accepted as an inevitable part of policing in Pakistan, and; (ii) perpetrators of torture are granted impunity through a combination of socio-cultural acceptance, lack of independent oversight, widespread powers of arrest and detention, procedural loopholes and ineffective safeguards, including Pakistan's failure to criminalize torture.

A. WIDESPREAD POLICE TORTURE AND ILL-TREATMENT

2. In a study conducted by the JPP and Allan K. Lowenstein International Human Rights Clinic at Yale Law School on a sample of 1867 Medico-Legal Certificates from the District of Faisalabad from 2006-2012, independent medical practitioners confirmed allegations of torture in 1424 cases.[1] In 96 additional cases physicians found signs amounting to injury which needed further testing to confirm the torture. 134 of the confirmed allegations of torture pertained to women and 58 involved children.[2] It was discovered that the police often arrested victims for no cause and arbitrarily detained them for prolonged periods whilst subjected them to multiple forms of abuse including severe beating, suspension in painful ways, stretching and prolonged solitary confinement.[3] Sexual assault and cultural humiliation (such as parading victims naked) were also common methods of intimidation, especially against women and children.[4]

3. Despite ratifying the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR) on 23 June 2010, the Government of Pakistan has not taken any effective measures to prevent, prohibit and redress torture and ill treatment by the police. Pakistan has still failed to submit the initial reports that became due in 2011 and any supplementary periodic reports thereafter. Additionally, no domestic legislation giving effect to the provisions contained in the UNCAT has been enacted even five years after ratification. A draft of the Anti-Torture Bill has been pending in the National Assembly for over a year, but there has been no demonstrated political will in enacting it.

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[1] Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, Yale Law School. 'Policing as Torture: A Report on Systematic Brutality and Torture By the Police in Faisalabad, Pakistan' March 2014. Available at < http://jpp.org.pk/torture/wp-content/uploads/2014/07/JPP-Launch-Report_052314.pdf>

[2] Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, Yale Law School. 'Abuse of Women by Faisalabad Police'. June 2014.Availible at < http://jpp.org.pk/torture/wp-content/uploads/2014/08/JPP-Abuse-of-Women-Follow-Up-Report-0530141.pdf>.

Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, Yale Law School. ' Abuse of Juveniles by the Faisalabad Police' June 2014. <http://www.law.yale.edu/JPP_Abuse_of_Juveniles_Follow_Up_Report_053014.pdf>

[3] Ibid at note 2.

[4] Ibid.

B. THE LACK OF DEFINITION AND CRIMINALISATION OF TORTURE

4. There is currently no definition of torture under Pakistan's domestic legal framework within the meaning provided under Article 1 of the UNCAT. Article 14 (2) of the Constitution of the Islamic Republic of Pakistan, 1973, the sole legal provision defining torture, only prohibits acts of torture committed by public officials for the purpose of extracting evidence. Pakistan has additionally failed to fulfill its obligations under Article 4 of the UNCAT to enact legislation criminalizing and punishing torture, as defined under Article 1 of the UNCAT. There is no mention of torture under Pakistan's two primary criminal codes: The Pakistan Penal Code (Act XLV of 1860) **(Penal Code)** and The Code of Criminal Procedure (Act V of 1898) **(CPC).** Article 156(d) of the Police Order, 2002 stipulates a minor penalty of imprisonment of a maximum period of five years on police officers for offences including "torture or violence" on any person in custody. Such provision clearly fails to distinguish torture from common assault and to impose a punishment proportional to the gravity and severity of the offence as required by the UNCAT.

PAKISTAN HAS FAILED TO TAKE MEASURES TO PREVENT AND INVESTIGATE ARBITRARY DETENTION AND ENFORCED DISAPPEARANCES BY THE POLICE

5. The JPP and the OMCT have observed that it is an unfortunate reality that police torture in Pakistan is facilitated by provisions under Pakistan's legal framework that provides vast powers of arrest and detention to police and provides effective impunity to the perpetrators of torture. Under the CPC any person under arrest is to be presented before a Magistrate in 24 hours who may thereafter remand him to police custody for a period of 15 days to facilitate any ongoing investigation.[5] Based on the JPP's experience, the grant of such remand is fairly mechanical with the Magistrate inevitably acquiescing to the wishes of the police without regard to the security of the detained. In the absence of any independent mechanism monitoring police custody, police arbitrarily detain suspects for prolonged periods of time without access to family and legal counsel thereby making them vulnerable to torture and ill-treatment. Suspects are often transferred to private torture cells located off station premises where they are tortured by police with impunity from superiors or media. Civil Society reports that there are 1300 private torture cells operating all over the country- one for each police station.

6. Pakistan's Anti-terrorism laws allow police to arbitrarily detain suspects for a period of up to three months without charge or access to any independent review. The newly enacted Protection of Pakistan Act 2014 **(PPA)** allows the state to detain suspects at undisclosed locations without any grounds and access to family and legal representation thereby putting them at risk for torture. Similarly, under section 11E of the Anti-Terrorism Act, 1997 **(ATA)** security agencies and civil armed forces can detain any person suspected of committing an offence under the Act for a period of up to 3 months without review or the possibility of a habeas petition. During this time investigation is meant to be completed by a joint investigative team. However, the clause under Section 21E of the ATA allows the remand period to be extended a further 90 days on application to the courts if "further evidence may be available". Additionally under section 11E of the ATA any person suspected of being involved in the activities of a proscribed organization can be detained for a period of up to a year.

7. In addition to preventive detention, police in collaboration with security agencies also routinely hold suspected terrorists, domestic political opponents, particularly Sindhi and Baloch nationalists, and journalists under enforced disappearance. Civilians are abducted by agents from their homes or public places and held in

unacknowledged detention at secret centers for over decades, where they are denied all access to their families and legal help. Some are victims of extra-judicial killings and buried without any public knowledge. In 2010, the Ministry Interior admitted that there are records of 965 unresolved cases of disappearances, whilst human rights organizations and families estimate the figures at 7000.[6] To date no member of law enforcement has been prosecuted in a case of enforced disappearance.

8. Law enforcement officials in Pakistan operate with little or no independent oversight that fosters a culture of impunity for the infliction of torture and other abuse of power. The Police Order, 2002 was enacted to introduce a system of independent monitoring on the operation of the police force. The Order provided for the institution of accountability mechanisms for reporting police abuse. At the district level, it established District Public Safety and Police Complaints Commissions (DPSPCC) and the Provincial Public Safety and Police Complaints Commission (PPSCPCC) at the Provincial level. However, only a few of the commissions have been established and those that were have done little more than hold a few meetings. The PPSPCC in Punjab – Pakistan's largest province- has not met for the past five years.[7]

C. PAKISTANI LAW DOES NOT ADEQUATELY EXCLUDE STATEMENTS PROCURED THROUGH TORTURE

9. Police torture and arbitrary detention are effectively deemed acceptable methods of criminal investigation, largely due to a lack of resources and training, as well as a pervasive institutional culture that disregards human dignity. Confessions and testimonials obtained under torture are used as the primary form of evidence in order to "resolve" cases expeditiously. Article 14(2) of the Constitution explicitly prohibits the "use of torture for the purposes of extracting evidence". The Qanun-e-Shahadat Order, 1984 (Law of Evidence) renders any confession or other statement made under police custody inadmissible as proof unless made in the presence of a Magistrate. However, JPP has observed that police get around the law by threatening the life of the prisoner and/or his or her family if he or she does not repeat the confession in front of the Magistrate. Additionally, police also torture the prisoner into making false statements about *physical evidence,* which then confected by the police becomes admissible at trial. Meanwhile, recent anti-terrorism legislation has broadened the scope of admissible evidence obtained through torture. Under Section 21-H of the ATA confessions made under the custody of police and/or security forces in terrorism cases are now admissible in evidence.

Case study: Shafqat Hussain

10. Shafqat Hussain was sentenced to death under the ATA at the age of 14 for alleged kidnapping and murder. He was convicted on the basis of a solitary piece of evidence - a confession that had been procured over 9 days of savage torture under arbitrary detention. Shafqat was blindfolded, kept in solitary confinement, beaten, electrocuted and burned with cigarette butts until he gave a false confession of guilt. Shafqat was then subjected to seven execution dates in the first seven months of 2015 – torture enough in of itself – before he was executed on 4th August 2015.

11. Pakistan has also failed to provide prompt and impartial investigation for allegations of torture as required under Article 13 of the UNCAT. There is a prevailing culture of apathy towards grievances of torture victims. In the absence of functioning monitoring bodies for complaints of torture, victims have to approach police for registration of an FIR (First Information Report). This obviously creates a ludicrous situation where victims must register an FIR with the people who committed the torture. People who have approached police with

[6] Amnesty international. ' The Bitterest of Agonies: End Enforced Disappearances in Pakistan' . September 2011.
[7] Ibid at note 1, at pg 26.

complaints mistreatment have often been jeered at and turned away. Police often refuse to file complaints against their colleagues and threaten victims and their families to withdraw their complaints. Even if an FIR is registered against a police officer, the court will inevitably rely upon the police to investigate itself. In most cases, the accused officers are appointed to undertake the investigation. In order to avoid culpability and reduce the credibility of the victims, the police often then file false charges in retaliation.

D. PAKISTAN HAS FAILED TO FULFIL ITS LEGAL OBLIGATION TO PROVIDE REPARATION FOR ACTS OF TORTURE

12. In the absence of any legislation criminalizing torture and arbitrary detention, there is no specific right to seek reparation available to victims. In theory, victims can seek compensation through a petition alleging violation of fundamental rights to either the High Court or to the Supreme Court. This is an essentially impossible burden, since a victim must pay lawyers and legal fees even to contemplate such a course. Additionally, under the PPC, those who cause hurt to extort a confession might be imprisoned. However, these provisions only impose liability on individuals and do not hold the authorities accountable to provide reparation for the violations committed by its agents.

13. Thus, the stark reality of "reparation" for victims in Pakistan is that it just does not happen. The victim is far more likely to receive additional threats and abuse for bringing torture to the attention of the authorities, than to receive any form of reparation. Fear of retaliation and the weakness of any meaningful judicial respect (particularly the delay involved in the resolution of a case), discourages most victims from seeking reparation through the court system. Of the 1,867 people who reported being tortured in Faisalabad there is no evidence that any of these people received reparations.[8]

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*Justice Project Pakistan, NGO without consultative status, also shares the views expressed in this statement.

[8] Justice Project Pakistan and Allard K. Lowenstein International Human Rights Clinic, Yale Law School. 'Policing as Torture: A Report on Systematic Brutality and Torture By the Police in Faisalabad, Pakistan' March 2014. Available at < http://jpp.org.pk/torture/wp-content/uploads/2014/07/JPP-Launch-Report_052314.pdf.

United Nations A/HRC/30/NGO/88

General Assembly

Distr.: General
7 September 2015

English and French only

Human Rights Council
Thirtieth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Catholic Child Bureau, Company of the Daughters of Charity of St. Vincent de Paul, Congregation of Our Lady of Charity of the Good Shepherd, Defence for Children International, Edmund Rice International Limited, International Juvenile Justice Observatory, International Volunteerism Organization for Women, Education and Development - VIDES, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Terre Des Hommes Federation Internationale, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15125(E)

Please recycle

Brazil: lowering the age of criminal majority is not the solution to address children in conflict with the Law challenges[1]*

Articles 23 of the 1940 Penal Code and 228 of the 1988 Federal Constitution set the age of criminal majority for children and adolescents (ACM) to 18. Notwithstanding, a constitutional amendment 171/193 adopted twice in July and August 2015 by the Chamber of Representatives aims at reducing the age from 18 to 16, which allows for treatment of children under adults regime. This ongoing legislative reform process has to be stopped.

The Amendment is Incompatible with UN Recommendations

1. UN human rights monitoring mechanisms, including the Committee on the Rights of the Child (CRC) and the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern over "the dramatic inequalities based on race, social class, gender and geographic location which significantly hamper progress towards the full realization of the children's rights" [2] in Brazil. The escalation of violence and the number of children and adolescents in conflict with the law are the result of multiple factors, including high rate of unemployment among young people, persistent and multifaceted violence against children in the Brazilian society in general, extreme poverty of the majority of the population, especially Afro descendants and indigenous people. These factors include also the inability of the authorities to properly fight gangs and drug trafficking, desegregation of families, high rate of school drop-out, and the impossibility to access economic, social, cultural, civil and political rights yet guaranteed as a matter of priority to children and adolescents by article 227 of the Constitution.

The Amendment is a Step Backwards from Brazil's National and International Commitments

2. The lack of alternative care impacts the increase of violence. It is a major challenge in Brazil even if the country has played a leading role in the adoption of the United Nations Guidelines on Alternative Care, applicable to "young persons already in alternative care and who need continuing care or support for a transitional period after reaching the age of majority under applicable law."[3] The amendment is detrimental to the efforts that Brazil has undertaken at the national level since the governments of Fernando Henrique Cardoso and Luiz Inácio Lula da Silva which pledged not to lower the ACM. It also relegates Brazil among countries that failed to protect the rights of children and adolescents. In addition, it undermines the sustainability of the outcomes achieved in implementing previous programs, such as «Bolsa Família» and «Brasil Carinhoso».

The Amendment Ignores Violence and Inequality Met by Adolescents

3. Adolescents are more victims than perpetrators of violence. Inequality, deprivation of family protection and violence against children and adolescents heighten the level of violence cases involving them. Indeed, the increase in criminality and the number of children and adolescents in conflict with the law is the result of adult instigation maneuvers using adolescents in a fragile community and family context. Thus, a number of towns, including Joao Pessoa, Maceió, Fortaleza, Sao Luis, Natal, Vitoria and Cuiabá record the highest criminality rate worldwide. According to the 2012 Health Ministry statistics, the homicide rate per 100.000 habitants within the total population was 38.5. It has doubled to reach 82.7 for homicide against young people. These figures have been confirmed in 2014 by the Ministry based on the Adolescent Homicide Index. In the Northern part of Brazil, except Teresina, the level of 100 homicides for 100.000 young people has been reached and has even doubled in Maceió[4].

The Amendment Confirms the Wrong Public Perception on the Rights of the Child and Children in Conflict with the Law

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[1] See BICE press releases C/N°001/2015 of 1st June 2015 and C/N°002/2015 of 31 July 2015. See also UNESCO May 2015 press release; joint NGO press release, June 2015

[2] CRC/C/15/Add.241, § 12; E/C.12/BRA/CO/2, §§ 10 & 16.

[3] A/RES/64/142, § 28 of 18 December 2009.

[4] Julio Jacobo WAISELFISZ, *Os Jovens Do Brasil, Mapa da Violência 2014*, Brasília, 2014, pp. 55 & 57.

4. A number of opinion polls show that the majority of the Brazilian population approves the lowering of the ACM. Such results are mainly based on the distorted image of children and adolescents in conflict with the law portrayed by the media, which not only deprive them from their rights holders' statute but also suggest that they deserve life imprisonment. This is in contradiction with the provisions of the Convention on the Rights of the Child that places the best interests of the child as the primary consideration, deprivation of liberty as a measure of last resort, treatment of such cases without resorting to judicial proceedings, priority given to non custodial measures, and the necessity to facilitate the reintegration into society. In addition, previous repressive legislative measures have not granted more security. On the contrary, the Drug Law 11.343/2006 has aggravated the over-incarceration and overcrowding up to 31.05% without improvements of the detention conditions and the security level of the population[5]. **Brazil should endeavor to implement Law n°8069 of 1990 on the Statute of the Child and Adolescent, which provides for prohibition of torture and ill-treatment and prioritizes their reintegration into society, as well as Law 12.594/2012 on restorative approach to juvenile justice.**

5. In addition, the public ignores the social and economic cost of a repressive juvenile justice system as envisaged by the constitutional amendment. It is proven that restorative justice is in accordance with the CRC, cost-effective and socially fair[6]. The repressive approach contained in the amendment is likely to increase the justice system budget, deepen the social inequality gap, divert attention from appropriate measures to fight violence in society and against children and adolescents, and to worsen the exclusion of marginalized and vulnerable children and adolescents.

Overcrowding Risks

6. Applying the adult justice regime to children and adolescents aged 16-18 will increase the prisons population as the ongoing reform aims at establishing a repressive approach to supposedly deter from offence commission and maintain adolescents offenders in detention, whilst the country is already seriously encountering overcrowding as highlighted by the Working Group on Arbitrary Detention in 2013[7] and the Special Rapporteur on Torture during his August 2015 *in situ* visit to Brazil[8]. In addition, the 16-18 age group is the most affected by violence from adults. The priority given to incarceration over non custodial and alternatives to deprivation of liberty measures will lead to over-incarceration with its ensuing problems.

Juvenile Justice is a *sui generis* Justice

7. The ongoing legislative reform undermines the indispensable distinction between the juvenile justice regime and the adults' justice system. Children in conflict with the law need more protection, special safeguards, care and appropriate treatment with due regard to their age and their best interests. Legal and policy measures introducing deprivation of liberty and incarceration in detention centers infringe CRC provisions as well as a set of principles that Brazil is committed to at the international level.

8. Recommendations:

- **(a) End the ongoing constitutional reform process aiming at lowering the ACM;**
- **(b) Develop in accordance with the Law 8.069/1990 on the Statute of the Child and Adolescent (ECA), a national juvenile justice program to i) prevent and fight against violence affecting children and adolescents; ii) establish or strengthen extrajudicial treatment facilities; iii) prioritize alternatives to the deprivation of liberty with the participation of children themselves, families and communities; and to iv) increase resources for the National Council on the Rights of Children and Adolescents (CONANDA);**

[5] It was the case with the law 8072/1990 that led to the increase of the criminality index up to 143,91%.
[6] Jordi BURCET SOLE, « Les situations de crise: une opportunité pour favoriser le milieu ouvert dans les interventions avec des mineurs en contact avec la loi », in Actes du Congrès international du BICE 2013, Paris 2014, pp. 98-105.
[7] A/HRC/27/48/Add.3 (2013), §§ 84-100 & 120-128
[8] See press release from Juan Ernesto Méndez, UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, August 2015.. According to Defence for Children International (DCI), "In Brazil, prisons' population exceeds in certain detention centers 120% in average, and 180% and more, in some cases", in "Conditions de détention des mineurs", World Congress on Juvenile Justice (28 Janvier 2015)- Présentation atelier sur Conditions de détention-Ileana Bello (Défense des enfants international-DEI).

- **(c) Strengthen and extend the implementation of the Law 12.594/2012 on the *Sistema Nacional de Atendimento Socioeducativo (SINASE)* providing for restorative justice approach that peacefully settles cases between victims and offenders, families and communities to heal feelings, restore relationships, and work on responsibility and redress;**
- **(d) Give a primary consideration to the integral protection of children and adolescents against violence and their reintegration in the society;**
- **(e) Similarly to *Bolsa Familia* and *Brasil Carinhoso* programs, implement programs on the access to education for all children and adolescents, effective support to families, alternative care, and vocational training for adolescents.**

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*Child Rights International Network and Pastor de Menor, NGOs without consultative status, also share the views expressed in this statement.

United Nations A/HRC/30/NGO/89

General Assembly

Distr.: General
7 September 2015

English only

Human Rights Council
Thirtieth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the World Evangelical Alliance, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-15127(E)

Please recycle

Written statement to the Universal Periodic Review

Freedom of religion or belief in Sri Lanka and the importance of ensuring an international investigation into issues of accountability during the final stages of the civil war

Introduction

Sri Lanka is a multi-ethnic, multi-religious, multilingual and multicultural country, which is emerging from a 30-year internal armed conflict that ended in 2009.

At Sri Lanka's most recent Universal Periodic Review on 1 November 2012, three recommendations put forward by the Holy See,[1] Italy,[2] and Spain[3] on promoting freedom of religion enjoyed the support of the government of Sri Lanka.[4]

In 2013, then UN High Commissioner for Human Rights, Navanethem Pillay, called for an international investigation into issues of accountability carried out in the final stages of the Sri Lankan civil war.[5]

This written submission focuses in particular on the freedom of religion or belief (FoRB) and also, specifically, on the importance of carrying out an independent and credible international investigation on issues of accountability during the final stages of the conflict.

FORB IN SRI LANKA

Constitutional and Legislative Framework governing FoRB

1. Article 9 of the Sri Lankan Constitution accords Buddhism "the foremost place" and makes it "the duty of State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)", granting Buddhism which is the majority religion special protected status and state patronage.

2. Article 10 guarantees that "every person is entitled to the freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice." Article 14(1)(e) guarantees that, "Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching". However, in Supreme Court Determination No. 2/2001, it was stated that this "does not guarantee a fundamental right to 'propagate' religion as in Article 25(1) of the Indian Constitution."[6]

3. Article 12 of the Constitution guarantees equality before the law and stipulates that no citizen shall be discriminated against on the grounds of race, religion, language, cast, sex, political opinion, place of birth or any one of such grounds.

International obligations

Sri Lanka is a state party to several international human rights treaties.

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[1] Recommendation 127.56
[2] Recommendation 127.57
[3] Recommendation 128.91
[4] Report of the Working Group on the Universal Periodic Review, Sri Lanka, A/HRC/22/16
[5] Report of the OHCHR, A/HRC/22/38
[6] S.C. Special Determination No. 19/2003, accessed via http://www.refworld.org/pdfid/4be3e7042.pdf

Among others, Sri Lanka has acceded to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of Racial Discrimination (ICERD) and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and has ratified the Convention on the Elimination of Discrimination against Women (CEDAW).

FoRB related issues

1. **Violence and intimidation**

A significant increase in the number of incidents against religious minorities was seen since 2012 with the emergence of Buddhist extremist groups such as the Bodu Bala Sena which led numerous attacks against Christians and Muslims in the country. For instance, a record high 103 incidents of persecution, discrimination and intimidation were recorded against Christians in 2013.[7] This was an almost 100% increase from 2012's 52 incidents. In 2014, 111 incidents were recorded against Christians.[8]

Types of incidents recorded against Christians include; arson attacks on churches, demolition of churches, damage to property, physical assault of clergy and church members causing serious injury, death threats, intimidation, discrimination, forced displacement and forced closure of churches.

According to the National Christian Evangelical Alliance of Sri Lanka (NCEASL), up to August 2015, 58 incidents were recorded against Christians. Notably, incidents of persecution against Christians, especially the Evangelical Christian community, continued under the newly formed government by President Maithripala Sirisena. Moreover, during 2015, the NCEASL noted a rise in incidents of discrimination and intimidation perpetrated by local government authorities in comparison to 2014, where a majority of the incidents were led by organized, extremist Buddhist groups.

Also, the Secretariat for Muslims (SFM) reported that in 2014, 113 incidents of threats, attempts to attack, attacks, harassment, inciting, intimidation, and violence were recorded against Muslims.[9]

2. **Weak law enforcement response to FoRB violations**

In many instances of violence against religious minorities, action taken by the police is inadequate due to the pressure exerted by local Buddhist monks, local government officials and politicians. Christians have also been victims of arbitrary arrests based on false allegations. Police officers have also compelled Christian pastors to discontinue religious worship activities. Some incidents have also been documented where the police have refused to file cases against perpetrators who have led violent attacks against Christian pastors and churches.

Recommendations

a) **Take swift action to the full extent of the law, including sections 290-292 of the Penal Code against religiously motivated acts of violence or attempts to incite hatred towards any particular minority community, including disciplinary action against state officials and public servants who commit acts of discrimination or fail to perform their duty in a fair and impartial manner.**

3. **Registration of Religious Places of Worship and the Official Recognition of Religious Minorities**

[7] NCEASL Incident Reports, accessed via, https://slchurchattacks.crowdmap.com
[8] Ibid
[9] Hate incidents against Muslims, January – December 2014, Secretariat for Muslims (SFM)

Sri Lankan legislation does not require the registration of religious places of worship or any religious body. However, a Circular dated October 2008 was issued by the Ministry of Buddha Sasana and Religious Affairs demanding that all "new constructions" of places of worship should obtain approval from the said Ministry.

Following to the issuance of Circular 2008, Evangelical Christian churches have faced routine harassment, including forced closures by local government authorities who claim such places of worship as not 'recognized' or 'registered' with the government. Refusal of 'recognition' by the state has deprived thousands of Christian citizens of their fundamental rights, including the freedom of thought, conscience and religion.

Since January 2015, however, a significant change in the political climate has taken place in Sri Lanka. With the election of President Maithripala Sirisena, a Christian Affairs Ministry was introduced by the new government along with the appointment of a Coordinator to look into the grievances of the Evangelical Christian community.

However, subsequent to the completion of the Parliamentary General Election held on 17th August 2015, it is yet to be made clear whether the Christian Affairs Ministry and the office of the Evangelical Coordinator would continue to remain as permanent establishments of the state.

Recommendations

b) **The Ministry of Buddhasasana and Religious Affairs should withdraw the Circular issued in 2008 pertaining to the construction of places of worship.**

c) **The government should appoint a permanent office for an Evangelical Coordinator to look into the grievances of the Evangelical Christian community.**

d) **A Christian Affairs Ministry should be permanently set up by the government to represent the rights of Christians.**

e) **The government should not discriminate against certain religious minorities and impede their legitimate exercise of religious freedom by not according them equal recognition.**

ENSURING AN INTERNATIONAL INVESTIGATION INTO THE ISSUE OF ACCOUNTABILITY DURING THE LAST STAGES OF THE WAR

In 2011, the Report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka found credible allegations on issues of accountability during the last stages of the civil war.[10] In 2013, then UN High Commissioner for Human Rights, Navanethem Pillay, called for an international investigation into alleged atrocities carried out in the final stages of the Sri Lankan civil war.

In 2014, a United States sponsored UN Human Rights Council (UN HRC) Resolution was passed on promoting reconciliation, accountability and human rights in Sri Lanka.[11] However, recently, a senior US official announced that the US will sponsor a resolution on Sri Lanka during the upcoming UN HRC session backing the government of Sri Lanka's plans for reconciliation and to conduct a local investigation on issues of accountability during the final stages of the armed conflict.[12]

[10]Report of the UNSG's panel of experts on accountability in SL, The Island, April 15, 2011, accessed via, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=23146

[11] Promoting reconciliation, accountability and human rights in Sri Lanka, A/HRC/25/1

[12] U.S. to Support Sri Lanka Plan to Investigate War Crimes, New York Times, August 26, 2015, accessed via, http://goo.gl/mZx5v2

The failure of the state to effectively address issues of accountability, 6 years following the end of the armed conflict in Sri Lanka demonstrates a lack of political will to hold accountable those responsible. As such, there are questions concerning the credibility of such an inquiry and the potential of a domestic investigation carried out by the government to provide meaningful accountability and effectively deliver justice to victims of Sri Lanka's civil war.

Recommendations

a) **The government should support an international inquiry that investigates issues of accountability during the final stages of the war and hold accountable those responsible**